

REMARKS

Claims 60-79 were pending. Claim 68 is canceled, and claim 67 is amended for clarity. No new matter is entered.

Response to Requirement for Information

The Examiner requested a listing of "all co-pending application[s] and related patents and therein identify the specific claims of those application[s] and/or patents which may provide basis for the priority of the instant application."

Applicant finds the request unclear because he cannot understand what the Examiner means by "related" or "specific claims." For the sole purpose of responding to the request, Applicant considers a patent or co-pending application to be "related" to the present application if it shares any common priority claim with the present application and a "specific claim" to be a claim of priority. The following patents and copending applications are "related":

5,417,213	5,762,065	6,243,600	6,754,521
5,553,619	5,792,056	6,278,892	6,889,072
5,579,767	5,799,649	6,463,318	7,110,806
5,590,654	6,230,041	6,662,038	10/809,835
5,746,208	6,240,311	6,741,881	11/493,055

Within this list, Applicant specifically claims priority to patent nos. 5,417,213, 5,553,619, 5,762,065, 6,278,892, 6,243,600, and 6,889,072 and therefore identifies them as the specific claims which may provide basis for the priority of the instant application.

Applicant respectfully disagrees with the Examiner's contention that patent nos. 6,937,883, 6,879,853, 6,564,085, 6,311,085, and 5,924,987 are "related." They have no common priority claim with the instant application.

Objection and Rejections of Claim 68

Claim 68 is canceled.

Claim Rejections: Double Patenting

Claims 60-67 and 69-79 were rejected for nonstatutory obviousness-type double patenting over claims 1-21 of U.S. Pat. No. 6,889,072. The Examiner acknowledged that the claims are not identical but stated that they are not patentably distinct from one another because "the subject matter in the instant application would have been unpatentable in view of the patented case (6,889,072 B2)."

The Examiner's rationale amounts to an argument that a double patenting should be automatic whenever a priority claim is made. The Examiner is mistaken; there is no rule, statute, or doctrine that so holds. Of course the subject matter of at least one claim would have been anticipated by the prior patent in the absence of a priority claim; otherwise, Applicant could not have validly made the priority claim. That fact, by itself, does not justify a double patenting rejection. Applicant maintains his position that the present claims recite subject matter patentably distinct from that of the '072 claims. It is the Examiner's burden to show why they are not, if he can.

For these reasons, Applicant requests reconsideration and withdrawal of the objection and rejections

Respectfully submitted,
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